IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 20275 of 1996

Between:

Chunduru Venkateswara Rao S/o Kotaiah
R/o Vadarevu Bazar, Perala Post,
Chirala (M), Prakasam Dist.

..... PETITIONER

AND

1 The Land Acquisition Officer (Revenue Divisional Officer),
Ongole
2 The Prl. Secretary to Govt. R & B Dept., Secretariat Buildings, Hyderabad

...RESPONDENTS

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 20275 Of 1996

ORDER:

1. This writ petition has been filed by Chunduru Venkateswara Rao, questioning the acquisition proceedings in respect of land in Survey Nos. 206/2A3A2, part admeasuring 0-70 cents of Erupalem village, Chirala Mandal, Prakasham District.

2. By the time the writ petition was filed, the award was not passed. The petitioner claims that he is absolute owner and possessor of land bearing Survey No. 206/2A3, 210/1 and 210/2 to the extent of Ac. 1-38-3/4th cents situated at Epurupalem village of Chirala Mandal, Prakasham District by virtue of the Deed of Family Settlement dated 29-4-1987 registered as Document No. 1182/1987 of Book 1 Vol. 704 at pages 139 to 141 in the office of the Sub-Registrar, Chirala, executed

by his grand mother Smt. Chunduru Mahalakshamma w/o late Ch. Sathyanarayana Swamy. He questioned the very notification under Section 4(1) and draft declaration under Section 6(1) of the Land Acquisition Act in the writ petition.

3. The respondent filed counter affidavit, wherein it is stated that the petitioner is at liberty to approach the Mandal Revenue Officer and Revenue Divisional Officer, with regard to enhancement of market value. It is further stated that draft notification and draft declaration were approved for Ac. 1-33 cents of Epurupalem village vide G.O.Rt. No. 1034 Transfort R & B (RI-2) Department, dated 5-10-1994. The said DN and DD proposals were also got published in the manner prescribed as per Law. I deem it appropriate to refer the relevant portion in para 3 of the counter affidavit and it is thus;

> " *It is submitted that as the requisition department requested to acquire the lands urgently action under urgency provisions u/s 17 of the Land Acquisition Act were initiated dispensing with the enquiry u/s 5A of the Act. The DN and DD were approved for Ac. 1-33 cents of Epurupalem village vide G.O.Rt. No.1034 Transfort R & B (RI-2) Dept., dt. 5-10-1994. The said DN and DD proposals were also got published in the manner prescribed as per law were as shown below.*
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> *Media DN DD*
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> *1. A.P. Gazette 19-11-94 21-11-1994*
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> *2. Eenadu 20-12-94 23-12-1994*
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> *3. Andhra Jyothi 20-12-94 23-12-1994*
>
> *4. Locality 24-12-94 24-12-1994*
>
> *P.V. Proposals were submitted to the Joint Collector, Ongole and they were approved. Notices u/s 9(1) and 10 of the Land Acquisition for publication of conspicuous places and notices u/s 9(3) and 10 of the Land Acquisition Act for service on the parties interested were issued on 27-4-95 posting the Award enquiry on 16-5-1995 at 11-00 a.m. at Revenue Divisional Officers Office, Ongole. The notices u/s 9(1) and 10 of the Land Acquisition Act were published in the manner prescribed under rules on 30-4-1995 and notices u/s 9(3) and 10 of the Land Acquisition Act were served on the parties interested on 30-4-1995. No objections were filed either for acquisition of the land or for apportionment of payment of compensation at the time of Award enquiry. Hence, award u/s 11(2) of the Land Acquisition Act was passed in this office Award No. 20/96-97*

dt. 17-12-1996."

4. Heard the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition appearing for the Respondent.

5. The learned counsel for the petitioner submits that compensation has not been paid to the petitioner, despite the petitioner being the owner of the land under acquisition.

6. The learned Government Pleader for Land Acquisition submits that Award has already been passed showing the name of grand father of the petitioner under the column of name of the Awardee and thus the writ petition itself has become infructuous.

7. A fact remains that the Land Acquisition Officer passed the Award on 17-12-1996. It is stated in the Award that the value of the Survey No. 206/2A3A2, for an extent of 0-70 cents has been fixed at Rs.57,894-00 per acre. I deem it appropriate to refer the relevant portion in the Award in respect of survey numbers claimed by the petitioner and it is thus;

> "*As regards the lands under acquisition in S.No. 206/2A3A2 for an extent of 0-70 cents to fix up Market Value, the sales mentioned at sale Nos. 2,5,6,7,8,9,10 are not considered, as they are house site sales in developed locality. Therefore, they cannot be accepted. The highest sale of sale item No. 4 is Rs. 57,894-00 per acre is considered suitable for fixing the Market Value for the S.Nos. 206/2A3A2 of Epurupalem village.*
>
> *Accordingly, I fixed the Market Value of the lands under acquisition in S.No. 206/2A3A2 is at Rs. 57,894/- per acre, as on the date of D.N. and also allowed solatium at 30% u/s 23(2) Addl. Market Value at 12% u/s 23(IA) and also cost of structures as laid down in the Land Acquisition Act".*

8. Since, the Award has been passed fixing the compensation to the land claimed by the petitioner. It is for the petitioner to workout his remedies for claiming the compensation already awarded to the lands claimed by him.

9. Accordingly, the writ petition is disposed of giving liberty to the petitioner to take necessary steps to claim the amount already awarded to the land which he asserts to be the owner under Family Settlement Deed, dated 29-4-1987. No order as to

costs.

B.Seshasayana Reddy, J.

21st September, 2005.

C.C. in a week

B/o

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THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

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W.P.No. 20275 Of 1996

21st September, 2005.